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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF WASHINGTON**  
9 **AT SPOKANE**

9 TRAVIS JAY WISE, et al.,

10 Plaintiffs,

11 v.

12 GOVERNOR JAY INSLEE, et al.,

13 Defendants.

NO. 2:21-cv-00288-TOR

STATE DEFENDANTS'  
ANSWER TO AMENDED  
COMPLAINT

14  
15 **GENERAL DENIAL**

16 Defendants Jay Inslee, Governor of the State of Washington;  
17 Donald Clintsman, Acting Secretary of the Washington State Department of Social  
18 and Health Services; John Batiste, Chief of the Washington State Patrol; and  
19 Roger Millar, Secretary of the Washington State Department of Transportation  
20 (collectively, the "State Defendants") answer Plaintiffs' Amended Complaint  
21 ("Complaint") filed at ECF No. 26. Except as expressly admitted or qualified,  
22

1 State Defendants deny each and every allegation, statement, or charge contained in  
2 the Complaint, and deny that Plaintiffs are entitled to any of the relief requested.

3 The coronavirus disease 2019 (COVID-19) pandemic is an unprecedented  
4 state, national, and international emergency that requires a commensurate  
5 governmental response to protect public health and save lives. The emergency  
6 orders issued by the Governor, like similar orders issued by numerous national,  
7 state, regional, and local governments around the world, address the pandemic by  
8 taking steps to mitigate the spread and lower the hospitalizations and fatalities  
9 caused by COVID-19. Specifically, Proclamation 21-14, as amended (collectively,  
10 the “Proclamation” or “Proclamation 21-14”), is a lawful exercise of the  
11 Governor’s emergency powers that infringes none of Plaintiffs’ constitutional or  
12 statutory rights.

13 State Defendants respond to the numbered allegations in the Complaint as  
14 follows:

## 15 I. INTRODUCTION

16 1.1 Paragraph 1.1 contains legal conclusions and argument to which no  
17 response is required. To the extent a further response is required, the allegations  
18 in Paragraph 1.1 are denied.

19 1.2 State Defendants are without information sufficient to form a belief  
20 as to the truth of the allegations in Paragraph 1.2 and therefore deny them.  
21  
22

## II. PARTIES AND JURISDICTION

### A. Subject matter jurisdiction

2.1 Paragraph 2.1 asserts legal conclusions to which no response is required. To the extent that a response is required, the allegations in Paragraph 2.1 are denied.

### B. Venue

2.2 Paragraph 2.2 asserts legal conclusions to which no response is required. To the extent that a response is required, the allegations in Paragraph 2.2 are denied.

### C. Personal jurisdiction

2.3 State Defendants admit they are Washington State residents but are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2.3 and therefore deny them.

2.3.1 State Defendants admit that Jay Inslee is the Governor of the State of Washington and is a named Defendant. The remainder of Paragraph 2.3.1 asserts legal conclusions to which no response is required. To the extent a response is required, the remaining allegations in Paragraph 2.3.1 are denied.

2.3.2 State Defendants deny that the City of Spokane is a named Defendant in this action. The remainder of Paragraph 2.3.2 asserts legal conclusions to which no response is required. To the extent a response is required, the remaining allegations in Paragraph 2.3.2 are denied.

1           2.3.3 Upon information and belief, State Defendants admit that  
2 Brian Schaeffer is the Fire Chief for the City of Spokane. The remainder of  
3 Paragraph 2.3.3 asserts legal conclusions to which no response is required. To  
4 the extent a response is required, the remaining allegations in Paragraph 2.3.3  
5 are denied.

6           2.3.4 State Defendants admit that John Batiste is the Chief of the  
7 Washington State Patrol. The remainder of paragraph 2.3.4 asserts legal  
8 conclusions to which no response is required. To the extent a response is required,  
9 the remaining allegations in Paragraph 2.3.4 are denied.

10           2.3.5 State Defendants admit that Roger Millar is the Secretary of the  
11 Washington State Department of Transportation (WSDOT). The remainder of  
12 Paragraph 2.3.5 asserts legal conclusions to which no response is required. To  
13 the extent a response is required, the remaining allegations in Paragraph 2.3.5  
14 are denied.

15           2.3.6 State Defendants admit that Donald Clintsman is the  
16 Acting Secretary of the Washington State Department of Social and Health  
17 Services (DSHS). The remainder of Paragraph 2.3.6 asserts legal conclusions to  
18 which no response is required. To the extent a response is required, the remaining  
19 allegations in Paragraph 2.3.6 are denied.

20           2.4 Paragraph 2.4 asserts legal conclusions and argument to which no  
21 response is required. To the extent a response is required, the allegations in  
22 Paragraph 2.4 are denied.

1           2.5     State Defendants are without information sufficient to form a belief  
2 as to the truth of the allegations in Paragraph 2.5 and therefore deny them.<sup>1</sup>

3           2.5.2–2.5.4     State Defendants are without information sufficient to form a  
4 belief as to the truth of the allegations in Paragraphs 2.5.2 through 2.5.4 and  
5 therefore deny them.

6           2.5.5–2.5.13           State Defendants admit that Chelsie Byroads, Cheryl  
7 Bernard, Nadia Fedorova, Shelley Engle, Jordan Lazaro, Desirae King, Mary  
8 Drass, and Laurece Rust are or were employees of the Washington State  
9 Department of Social and Health Services. State Defendants are without  
10 information sufficient to form a belief as to the truth of the remaining allegations  
11 in Paragraphs 2.5.5 through 2.5.13 and therefore deny them.<sup>2</sup>

12           2.5.14–2.5.16     State Defendants admit that Thomas Forsyth,  
13 Andilee Jordan, and Travis Yeager are or were employees of the Washington  
14 State Patrol. State Defendants are without information sufficient to form a belief  
15 as to the truth of the remaining allegations in Paragraphs 2.5.14 through 2.5.16  
16 and therefore deny them.

17           2.5.17–2.5.20     State Defendants admit that Levi Hines,  
18 David Charbonneau, Christopher Moore, and Terry Dunn are or were employees  
19 of the Washington State Department of Transportation. State Defendants are  
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21           <sup>1</sup> Paragraph 2.5.1 is missing from Plaintiffs' Amended Complaint.

22           <sup>2</sup> Plaintiff Chelsea Byroads is duplicated at Paragraph 2.5.12.

1 without information sufficient to form a belief as to the truth of the remaining  
2 allegations in Paragraphs 2.5.17 through 2.5.20 and therefore deny them.

3 2.5.21 State Defendants admit that Jacob Wolfe was an employee of the  
4 Washington State Department of Fish and Wildlife. State Defendants are without  
5 information sufficient to form a belief as to the truth of the remaining allegations  
6 in Paragraph 2.5.21 and therefore deny them.

7 2.5.22 State Defendants admit that Grant Rodkey was an employee of the  
8 Washington State Department of Social and Health Services. State Defendants  
9 are without information sufficient to form a belief as to the truth of the remaining  
10 allegations in Paragraph 2.5.22 and therefore deny them.

11 2.5.23 State Defendants are without information sufficient to form a belief  
12 as to the truth of the allegations in Paragraph 2.5.23 and therefore deny them.

### 13 III. FACTS

14 3.1 State Defendants admit Governor Inslee issued  
15 Proclamation 21-14.2 on September 27, 2021. The text of the Proclamation  
16 speaks for itself and requires no response by way of factual pleading. To the extent  
17 a further response is required, the remaining allegations in Paragraph 3.1 are  
18 denied.

19 3.2 Paragraph 3.2 asserts legal conclusions and argument to which no  
20 response is required. To the extent a response is required, the allegations in  
21 Paragraph 3.2 are denied.  
22

1           3.3 Paragraph 3.3 asserts legal conclusions and argument to which no  
2 response is required. To the extent a response is required, State Defendants admit  
3 the Proclamation recognizes religious and disability exemptions and specifies  
4 how State Agencies, operators of Educational Settings, and operators of  
5 Health Care Settings should implement the requirements of the Proclamation and  
6 deny the remainder of Paragraph 3.3.

7           3.4 State Defendants admit that, on August 9, 2021, Acting Secretary  
8 Don Clintsman sent an email regarding the Proclamation. State Defendants are  
9 without information sufficient to form a belief as to the truth of the allegation in  
10 Paragraph 3.4 as to all employees receiving the email on August 9, 2021, and  
11 therefore deny it.

12           3.5 State Defendants admit that, on August 14, 2021, an email was sent  
13 to DSHS employees regarding a process for seeking religious accommodations.  
14 The text of the email communication speaks for itself and requires no response by  
15 way of factual pleading. To the extent a further response is required, the  
16 remaining allegations in Paragraph 3.5 are denied.

17           3.6 State Defendants admit that on August 16, 2021, an email was sent  
18 to DSHS employees regarding the requirements of the Proclamation that also  
19 directed employees on where to get more information on medical and religious  
20 accommodations. State Defendants are without information sufficient to form a  
21 belief as to the truth of the allegation in Paragraph 3.6 as to all employees  
22 receiving the email on August 16, 2021, and therefore deny it.

1           3.7 State Defendants admit that, on August 22, 2021, Plaintiff Shelley  
2 Engle submitted a request for a religious accommodation.

3           3.8 State Defendants admit that a letter responding to Plaintiff Engle's  
4 request for a religious accommodation was emailed on September 10, 2021.  
5 State Defendants further admit DSHS determined that the exemption request was  
6 based on a sincerely held religious belief. State Defendants further admit that the  
7 letter explained, in considering that request for an accommodation, DSHS would  
8 evaluate the essential functions of Plaintiff Engle's position, as well as business  
9 requirements for workplace safety, and that Plaintiff Engle would be contacted  
10 by email with additional information regarding the accommodation decision.

11           3.9 State Defendants admit that, on September 17, 2021, the  
12 Human Resources Division of DSHS sent an email reminder regarding the  
13 Proclamation. State Defendants are without information sufficient to form a  
14 belief as to the truth of the allegation in Paragraph 3.9 as to all employees  
15 receiving the email on September 17, 2021, and therefore deny it.

16           3.10 State Defendants admit that, on September 17, 2021, an email was  
17 sent to Plaintiff Engle on when to anticipate follow-up information regarding an  
18 accommodation decision.

19           3.11 State Defendants admit that, on September 24, 2021, an email was  
20 sent to Plaintiff Engle regarding an accommodation, and after carefully reviewing  
21 the job classification, essential functions, and working environment, it was  
22 determined that the only accommodation available was the possibility of



1 reassignment. State Defendants further admit the email included information on  
2 how and when to pursue potential reassignment.

3 3.12 State Defendants admit that, on September 28, 2021, Plaintiff Engle  
4 sent her resume to DSHS. The remainder of Paragraph 3.12 asserts legal  
5 conclusions and argument to which no response is required. To the extent a  
6 response is required, the remaining allegations in Paragraph 3.12 are denied.

7 3.13 State Defendants admit that, on September 28, 2021, a “Notice of  
8 Intent to Separate for Non-disciplinary Reasons” was sent to Plaintiff Engle. To  
9 the extent Plaintiffs attempt to characterize that document, it speaks for itself. To  
10 the extent a further response is required, State Defendants admit the second and  
11 third paragraphs of Paragraph 3.13 quote from the notice sent to Plaintiff Engle.

12 3.14 State Defendants admit that as of October 6, 2021, Plaintiff Engle  
13 had not received written notice from DSHS on whether she could be reassigned  
14 but that DSHS sent such notice on or around October 13, 2021. That notice  
15 explained that DSHS had determined Plaintiff Engle did not have an option  
16 through the reassignment accommodation process because she did not meet the  
17 qualifications for positions then available as reassignment options.  
18 State Defendants deny the remaining allegations in Paragraph 3.14.

19 3.15 State Defendants admit that, on August 11, 2021, Chief John Batiste  
20 sent an email regarding the Proclamation. State Defendants are without  
21 information sufficient to form a belief as to the truth of the allegation in  
22

1 Paragraph 3.15 as to all employees receiving the email on August 11, 2021, and  
2 therefore deny it.

3 3.16 State Defendants admit that, on August 12, 2021, Plaintiff Andilee  
4 Jordan submitted a request for a religious accommodation.

5 3.17 State Defendants admit that, on August 24, 2021, Plaintiff Travis  
6 Yeager submitted a request for a religious accommodation.

7 3.18 State Defendants are without information sufficient to form a belief  
8 as to the truth of the allegations in Paragraph 3.18 and therefore deny them.

9 3.19 State Defendants are without information sufficient to form a belief  
10 as to the truth of the allegations in the first sentence in Paragraph 3.19 and  
11 therefore deny them. State Defendants admit the second sentence in  
12 Paragraph 3.19 accurately quotes from written communication sent to  
13 Plaintiff Yeager. To the extent Plaintiffs attempt to characterize that  
14 communication, it speaks for itself. To the extent a further response is required,  
15 State Defendants admit that after carefully reviewing the job classification,  
16 essential functions, and working environment, it was determined that the only  
17 accommodation available for Plaintiff Yeager was the possibility of  
18 reassignment.

19 3.20 State Defendants admit the first sentence in Paragraph 3.20.  
20 State Defendants further admit the second sentence in Paragraph 3.20 accurately  
21 quotes from written communication sent to Plaintiff Jordan. To the extent  
22 Plaintiffs attempt to characterize that communication, it speaks for itself. To the

1 extent a further response is required, State Defendants admit the third and fourth  
2 sentences in Paragraph 3.20 and state that after carefully reviewing the job  
3 classification, essential functions, and working environment, it was determined  
4 that the only accommodation available was the possibility of reassignment.

5 3.21 State Defendants admit the allegations in Paragraph 3.21.

6 3.22 State Defendants admit that on September 23, 2021, Plaintiff Jordan  
7 received a “Notice to Separate for Non-disciplinary reasons.” To the extent  
8 Plaintiffs attempt to characterize that document, it speaks for itself. To the extent  
9 a further response is required, State Defendants deny the remaining allegations  
10 in Paragraph 3.22.

11 3.23 State Defendants are without information sufficient to form a belief  
12 as to the truth of the allegations in Paragraph 3.23 and therefore deny them.

13 3.24 State Defendants are without information sufficient to form a belief  
14 as to the truth of the allegations in Paragraph 3.24 and therefore deny them.

15 3.25 State Defendants are without information sufficient to form a belief  
16 as to the truth of the allegations in Paragraph 3.25 and therefore deny them.

17 3.26 State Defendants are without information sufficient to form a belief  
18 as to the truth of the allegations in Paragraph 3.26 and therefore deny them.

19 3.27 State Defendants are without information sufficient to form a belief  
20 as to the truth of the allegations of the first sentence of Paragraph 3.27 and  
21 therefore deny them. The second sentence of Paragraph 3.27 contains legal  
22 conclusions and argument to which no response is required. To the extent a

1 further response is required, State Defendants deny the second sentence of  
2 Paragraph 3.27.

3 3.28 State Defendants admit the allegations in Paragraph 3.28.

4 3.29 State Defendants admit the allegations in Paragraph 3.29.

5 3.30 State Defendants admit the allegations in Paragraph 3.30.

6 3.31 State Defendants admit that, on August 26, 2021, an email was sent  
7 to WSDOT staff regarding the medical and religious exemption process.  
8 State Defendants are without information sufficient to form a belief as to the truth  
9 of the allegation in Paragraph 3.31 regarding the receipt of the email by all staff  
10 on August 29, 2021, and therefore deny it.

11 3.32 State Defendants admit the allegations in Paragraph 3.32.

12 3.33 State Defendants admit the allegations in Paragraph 3.33.

13 3.34 State Defendants admit that an email with instructions on how  
14 WSDOT staff could validate their COVID-19 vaccination status was sent on  
15 September 8, 2021. State Defendants are without information sufficient to form  
16 a belief as to the truth of the allegation in Paragraph 3.34 regarding the receipt of  
17 email by all WSDOT staff on September 8, 2021, and therefore deny it.

18 3.35 State Defendants admit that a reply to Plaintiff Charbonneau's  
19 religious exemption request was sent on September 14, 2021. State Defendants  
20 are without sufficient information to form a belief as to the truth of the allegation  
21 regarding Plaintiff Charbonneau's receipt of the same on September 14, 2021,  
22 and therefore deny it. State Defendants admit that after carefully reviewing the

1 job classification, essential functions, and working environment, it was  
2 determined that no accommodation could be made in Plaintiff Charbonneau's  
3 current position.

4 3.36 State Defendants admit the allegations in Paragraph 3.36.

5 3.37 State Defendants admit the allegations in Paragraph 3.37.

6 3.38 State Defendants admit the allegations in Paragraph 3.38.

7 3.39 State Defendants admit that a meeting summary, dated  
8 September 24, 2021, was sent to Plaintiff Charbonneau. To the extent Plaintiffs  
9 attempt to characterize that document, it speaks for itself. To the extent a further  
10 response is required, State Defendants admit that the discussion encompassed  
11 Plaintiff Charbonneau's job duties that required his presence in the workplace,  
12 including on-site visits, work with survey crews, and meetings with utility  
13 companies. State Defendants further admit that those essential functions require  
14 unavoidable and unpredictable interaction and/or exposure to others.

15 3.40 State Defendants are without information sufficient to form a belief  
16 as to the truth of the allegations in Paragraph 3.40 and therefore deny them.

17 3.41 State Defendants admit Plaintiff Charbonneau was promoted in  
18 July 2021, but are without information sufficient to form a belief as to the truth  
19 of the remaining allegations in Paragraph 3.41 and therefore deny them.

20 3.42 State Defendants admit Paragraph 3.42 accurately quotes the  
21 meeting summary dated September 24, 2021. To the extent Plaintiffs attempt to  
22 characterize that document, it speaks for itself.

1           3.43 State Defendants admit that, on September 17, 2021, an email was  
2 sent to WSDOT Eastern Region Users that described retirement, vaccine  
3 validation, and accommodation reassignments, and that Paragraph 3.43 quotes  
4 portions of that email. State Defendants are without information sufficient to  
5 form a belief as to the truth of the allegation in Paragraph 3.43 regarding the  
6 receipt of the email by all WSDOT Eastern Region Users on September 17, 2021,  
7 and therefore deny it.

8           3.44 Paragraph 3.44 contains legal conclusions and argument to which  
9 no response is required. To the extent a further response is required,  
10 State Defendants deny Paragraph 3.44.

11           3.45 State Defendants are without information sufficient to form a belief  
12 as to the truth of the allegations in Paragraph 3.45 and therefore deny them.

13           3.46 State Defendants admit the allegations in Paragraph 3.46. To the  
14 extent Plaintiffs attempt to characterize that document, it speaks for itself.

15           3.47 State Defendants admit that, on September 22, 2021,  
16 Secretary Millar sent an all-staff WSDOT email. To the extent Plaintiffs attempt  
17 to characterize that document, it speaks for itself.

18           3.48 State Defendants admit the allegations in Paragraph 3.48.

19           3.49 State Defendants admit the allegations in Paragraph 3.49.

20           3.50 State Defendants admit the allegations in Paragraph 3.50.  
21  
22

**IV. FIRST CAUSE OF ACTION**

**Injunctive Relief Against Governor Inslee;**

**Damages where proved against non-state defendants**

**Violation of 42 U.S.C. 1983**

4.1 State Defendants incorporate by reference their answers to the preceding paragraphs.

4.2 Paragraph 4.2 asserts legal conclusions and argument to which no response is required. To the extent a response is required, Paragraph 4.2 is denied.

4.3 State Defendants deny Paragraph 4.3.

4.4 State Defendants deny Paragraph 4.4.

**V. SECOND CAUSE OF ACTION**

**Governor's Proclamation is Ultra Vires and Void, Without Legal Effect;**

**Injunctive Relief Sought**

*A. Wrongful Delegation of Legislative Powers and Improper Execution  
of Emergency Powers*

5.1 State Defendants incorporate by reference their answers to the preceding paragraphs.

5.2 State Defendants deny Plaintiffs have accurately quoted Article I, Section 42, of the Washington Constitution. In addition, the Washington Constitution speaks for itself and requires no response by way of factual pleading.

1           5.3 Paragraph 5.3 asserts legal conclusions and argument to which no  
2 response is required. To the extent a response is required, the allegations in  
3 Paragraph 5.3 are denied.

4           5.4 Paragraph 5.4 asserts legal conclusions and argument to which no  
5 response is required. To the extent a response is required, the allegations in  
6 Paragraph 5.4 are denied.

7           5.5 State Defendants deny Paragraph 5.5.

8           5.6 State Defendants deny Paragraph 5.6.

9           5.7 State Defendants deny Paragraph 5.7.

10          5.8 State Defendants deny Paragraph 5.8.

11          5.9 State Defendants deny that Paragraph 5.9 contains a quote to the  
12 cases cited. The quote in Paragraph 5.9 is to *Jacobson v. Commonwealth of*  
13 *Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643 (1905). To the extent  
14 Plaintiffs attempt to characterize *Jacobson* and the other cases cited in  
15 Paragraph 5.9, the cases speak for themselves and require no response by way of  
16 factual pleading. To the extent any remaining allegations contain averments of  
17 material fact requiring a response, State Defendants deny the remaining  
18 allegations contained in Paragraph 5.9.

19          5.10 State Defendants deny Paragraph 5.10.

20          *B. Impermissible Interference With and Excessive Burdens Upon*  
21 *Interstate Commerce*

22          5.11 State Defendants deny Paragraph 5.11.



1           5.12 State Defendants are without information sufficient to form a belief  
2 as to the truth of the allegations in Paragraph 5.12 on where “some” Plaintiffs  
3 live and work, and therefore deny them. State Defendants further deny the  
4 remainder of Paragraph 5.12.

## 5                                   **VI. THIRD CAUSE OF ACTION**

### 6           **Deprivation of Religious Freedom, U.S. CONST., Amend. I, WASH. CONST.** 7           **Art. I, Sec. 11 and the Equal Protection Clause of the 14th Amendment to** 8           **the federal constitution (declaratory and injunctive relief)**

9           6.1 State Defendants incorporate by reference their answers to the  
10 preceding paragraphs.

11           6.2 State Defendants deny Paragraph 6.2.

12           6.3 State Defendants deny Paragraph 6.3.

13           6.4 State Defendants admit that the Proclamation is facially neutral but  
14 otherwise deny Paragraph 6.4.

15           6.5 Paragraph 6.5 asserts legal conclusions and argument to which no  
16 response is required. To the extent a response is required, the allegations in  
17 Paragraph 6.5 are denied.

18           6.6 Paragraph 6.6 purports to quote a document without attaching the  
19 document. State Defendants are unable to access the document with the link listed  
20 to determine whether Plaintiffs have accurately quoted the document.  
21 State Defendants are without information sufficient to form a belief as to the truth  
22 of the allegations in Paragraph 6.6 and therefore deny them.

1           6.7    State Defendants deny Paragraph 6.7.

2           6.8    State Defendants deny Paragraph 6.8.

3                           *Jacobson Ostensibly Forbids Enforcement*

4           6.9    Paragraph 6.9 contains legal conclusions and argument to which no  
5 response is required. To the extent Plaintiffs attempt to characterize *Jacobson v.*  
6 *Commonwealth of Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643  
7 (1905), the case speaks for itself and requires no response by way of factual  
8 pleading. To the extent any remaining allegations contain averments of material  
9 fact requiring a response, State Defendants deny the remaining allegations  
10 contained in Paragraph 6.9.

11          6.10   Paragraph 6.10 contains legal conclusions and argument to which  
12 no response is required. To the extent Plaintiffs attempt to characterize *Jacobson*  
13 *v. Commonwealth of Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643  
14 (1905), the case speaks for itself and requires no response by way of factual  
15 pleading. To the extent any remaining allegations contain averments of material  
16 fact requiring a response, State Defendants deny the remaining allegations  
17 contained in Paragraph 6.10.

18          6.11   Paragraph 6.11 contains legal conclusions and argument to which  
19 no response is required. To the extent Plaintiffs attempt to characterize *Jacobson*  
20 *v. Commonwealth of Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643  
21 (1905), the case speaks for itself and requires no response by way of factual  
22 pleading. To the extent any remaining allegations contain averments of material

1 fact requiring a response, State Defendants deny the remaining allegations  
2 contained in Paragraph 6.11.

3 6.12 Paragraph 6.12 contains legal conclusions and argument to which  
4 no response is required. To the extent Plaintiffs attempt to characterize *Jacobson*  
5 *v. Commonwealth of Massachusetts*, 197 U.S. 11, 25 S. Ct. 358, 49 L. Ed. 643  
6 (1905), the case speaks for itself and requires no response by way of factual  
7 pleading. To the extent any remaining allegations contain averments of material  
8 fact requiring a response, State Defendants deny the remaining allegations  
9 contained in Paragraph 6.12.

10 6.13 State Defendants deny Paragraph 6.13.

## 11 **VII. FOURTH CAUSE OF ACTION**

### 12 **Procedural Due Process**

13 7.1 Paragraph 7.1 contains legal conclusions and argument to which no  
14 response is required. To the extent Plaintiffs attempt to characterize *Didlake v.*  
15 *Washington State*, 186 Wash. App. 417, 426, 345 P.3d 43 (2015), and *Board of*  
16 *Regents of State Colleges v. Roth*, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548  
17 (1972), the cases speak for themselves and require no response by way of factual  
18 pleading. To the extent any remaining allegations contain averments of material  
19 fact requiring a response, State Defendants deny the remaining allegations  
20 contained in Paragraph 7.1.

21 7.2 Paragraph 7.2 contains legal conclusions and argument to which no  
22 response is required. To the extent Plaintiffs attempt to characterize *Board of*

1 *Regents of State Colleges v. Roth*, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548  
 2 (1972) and *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 105 S.  
 3 Ct. 1487, 84 L. Ed. 2d 494 (1985), the cases speak for themselves and require no  
 4 response by way of factual pleading. To the extent any remaining allegations  
 5 contain averments of material fact requiring a response, State Defendants deny  
 6 the remaining allegations contained in Paragraph 7.2.

7 7.3 State Defendants deny Paragraph 7.3.

8 7.4 State Defendants deny Paragraph 7.4.

## 9 **VIII. FIFTH CAUSE OF ACTION**

### 10 **Substantive Due Process**

11 8.1 State Defendants admit that Paragraph 8.1 accurately quotes  
 12 *Corales v. Bennett*, 567 F.3d 554, 568 (9th Cir. 2009). To the extent Plaintiffs  
 13 attempt to characterize *Corales v. Bennett*, 567 F.3d 554, 568 (9th Cir. 2009) and  
 14 *Nunez v. City of Los Angeles*, 147 F.3d 867, 871 (9th Cir. 1998), the cases speak  
 15 for themselves and require no response by way of factual pleading. To the extent  
 16 any remaining allegations contain averments of material fact requiring a  
 17 response, State Defendants deny the remaining allegations contained in  
 18 Paragraph 8.1.

19 8.2 Paragraph 8.2 asserts legal conclusions and argument to which no  
 20 response is required. To the extent any remaining allegations contain averments  
 21 of material fact requiring a response, State Defendants deny the remaining  
 22 allegations contained in Paragraph 8.2.

1           8.3 Paragraph 8.3 asserts legal conclusions and argument to which no  
2 response is required. To the extent any remaining allegations contain averments  
3 of material fact requiring a response, State Defendants deny the remaining  
4 allegations contained in Paragraph 8.3.

5           8.4 State Defendants deny Paragraph 8.4.

6           8.5 State Defendants deny Paragraph 8.5.

7           8.6 State Defendants deny Paragraph 8.6.

## 8                                   IX. SIXTH CAUSE OF ACTION

### 9                                   Taking and Violations of the Contracts Clause

#### 10                                  *Taking of Property Without Just Compensation*

11           9.1 State Defendants deny that Paragraph 9.1 accurately quotes  
12 Article 5 of the U.S. Constitution. Paragraph 9.1 quotes a portion of Article 1,  
13 Section 16 of the Washington Constitution.

14           9.2 Paragraph 9.2 asserts legal conclusions and argument to which no  
15 response is required. To the extent Plaintiffs attempt to characterize *Woods View*  
16 *II, LLC v. Kitsap County*, 188 Wash. App. 1, 39, 352 P.3d 807, 826 (2015), and  
17 *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433, 102 S. Ct.  
18 3164, 71 L. Ed. 2d 868 (1982), the cases speak for themselves and require no  
19 response by way of factual pleading. To the extent any remaining allegations  
20 contain averments of material fact requiring a response, State Defendants deny  
21 the remaining allegations contained in Paragraph 9.2.  
22

1           9.3 Paragraph 9.3 asserts legal conclusions and argument to which no  
 2 response is required. To the extent Plaintiffs attempt to characterize *Omnia*  
 3 *Commercial Co. v. United States*, 261 U.S. 502, 508, 43 S. Ct. 437, 67 L. Ed. 773  
 4 (1923); *Long Island Water-Supply Co. v. City of Brooklyn*, 166 U.S. 685, 690,  
 5 17 S. Ct. 718, 41 L. Ed. 1165 (1897); and *City of Cincinnati v. Louisville &*  
 6 *Nashville Railroad Company*, 223 U.S. 390, 400, 32 S. Ct. 267, 56 L. Ed. 481  
 7 (1912), the cases speak for themselves and require no response by way of factual  
 8 pleading. To the extent any remaining allegations contain averments of material  
 9 fact requiring a response, State Defendants deny the remaining allegations  
 10 contained in Paragraph 9.3.

11           9.4 State Defendants deny Paragraph 9.4.

12           9.5 State Defendants deny Paragraph 9.5.

13           *Threats to Terminate State Employees Without Unemployment Benefits*  
 14           *Constitute a Violation of the Equal Protection, Due Process, and*  
 15           *Contract Clauses*

16           9.6 Paragraph 9.6 asserts legal conclusions and argument to which no  
 17 response is required. To the extent Plaintiffs attempt to characterize *United States*  
 18 *Trust Company of New York v. New Jersey*, 431 U.S. 1, 17, 97 S. Ct. 1505, 1515,  
 19 52 L. Ed. 2d 92 (1977), the case speaks for itself and requires no response by way  
 20 of factual pleading. To the extent any remaining allegations contain averments of  
 21 material fact requiring a response, State Defendants deny the remaining  
 22 allegations contained in Paragraph 9.6.

1           9.7 State Defendants deny that Wash. Rev. Code § 50.10.20 regulates  
2 the issuances of unemployment benefits in the State of Washington as there is no  
3 chapter 50.10 in the Revised Code of Washington. State Defendants further deny  
4 the remaining allegations contained in Paragraph 9.7.

5           9.8 Paragraph 9.8 asserts legal conclusions and argument to which no  
6 response is required. To the extent Plaintiffs attempt to characterize  
7 *Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 439, 54 S. Ct. 231, 78 L.  
8 Ed. 413 (1934), and *United States Trust Company of New York v. New Jersey*,  
9 431 U.S. 1, 22, 97 S. Ct. 1505, 52 L. Ed. 2d 92 (1977), the cases speak for  
10 themselves and requires no response by way of factual pleading. To the extent any  
11 remaining allegations contain averments of material fact requiring a response,  
12 State Defendants deny the remaining allegations contained in Paragraph 9.8.

13           9.9 Paragraph 9.9 contains legal conclusions and argument to which no  
14 response is required. To the extent Plaintiffs attempt to characterize  
15 *Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 439, 54 S. Ct. 231, 78 L.  
16 Ed. 413 (1934), and *United States Trust Company of New York v. New Jersey*,  
17 431 U.S. 1, 22, 97 S. Ct. 1505, 52 L. Ed. 2d 92 (1977), the cases speak for  
18 themselves and requires no response by way of factual pleading. To the extent a  
19 further response is required, the allegations in Paragraph 9.9 are denied.

20           9.10 State Defendants deny Paragraph 9.10.  
21  
22

**X. SEVENTH CAUSE OF ACTION**

**Americans with Disabilities Act (ADA)**

10.1 State Defendants admit that Paragraph 10.1 accurately quotes 42 U.S.C. § 12112(a). The statute speaks for itself and requires no response by way of factual pleading. To the extent any remaining allegations contain averments of material fact requiring a response, State Defendants deny the allegations contained in Paragraph 10.1.

10.2 State Defendants admit that Paragraph 10.2 accurately quotes 42 U.S.C. § 12112(b)(5)(A). The statute speaks for itself and requires no response by way of factual pleading. To the extent any remaining allegations contain averments of material fact requiring a response, State Defendants deny the allegations contained in Paragraph 10.2.

10.3 State Defendants admit that Paragraph 10.3 accurately quotes definitions set forth in 42 U.S.C. § 12111. The statute speaks for itself and requires no response by way of factual pleading. To the extent any remaining allegations contain averments of material fact requiring a response, State Defendants deny the allegations contained in Paragraph 10.3.

10.4 Paragraph 10.4 asserts legal conclusions and argument to which no response is required. To the extent Plaintiffs attempt to characterize *Samper v. Providence St. Vincent Medical Center*, 675 F.3d 1233, 1237 (9th Cir. 2012), the case speaks for itself and requires no response by way of factual pleading. To the



1 extent any remaining allegations contain averments of material fact requiring a  
2 response, State Defendants deny the allegations contained in Paragraph 10.4.

3 10.5 State Defendants admit that Paragraph 10.5 accurately quotes  
4 42 U.S.C. § 12102(1)(A)–(C). The statute speaks for itself and requires no  
5 response by way of factual pleading. To the extent a response is required, the  
6 allegations in Paragraph 10.5 are denied.

7 10.6 State Defendants admit that Paragraph 10.6 accurately quotes  
8 29 C.F.R. § 1630.2(o)(4). The regulation speaks for itself and requires no  
9 response by way of factual pleading. To the extent a response is required, the  
10 allegations in Paragraph 10.6 are denied.

11 10.7 State Defendants admit that Paragraph 10.7 accurately quotes  
12 42 U.S.C. § 12111(8). The statute speaks for itself and requires no response by  
13 way of factual pleading. To the extent a response is required, the allegations in  
14 Paragraph 10.7 are denied.

15 10.8 State Defendants admit that Paragraph 10.8 accurately quotes  
16 29 C.F.R. § 1630.2(n)(1). The regulation speaks for itself and requires no  
17 response by way of factual pleading. To the extent Plaintiffs attempt to  
18 characterize 29 C.F.R. § 1630.2(n)(1) and *Humphrey v. Memorial Hospitals*  
19 *Association*, 239 F.3d 1128, 1137 (9th Cir. 2001), the regulation and case speak  
20 for themselves and require no response by way of factual pleading. To the extent  
21 any remaining allegations contain averments of material fact requiring a  
22

1 response, State Defendants deny the remaining allegations contained in  
2 Paragraph 10.8.

3 10.9 State Defendants admit that Paragraph 10.9 accurately quotes  
4 29 C.F.R. § 1630.9(a). The regulation speaks for itself and requires no response  
5 by way of factual pleading. To the extent a response is required, the allegations  
6 in Paragraph 10.9 are denied.

7 10.10 State Defendants admit that Paragraph 10.10 accurately quotes  
8 42 U.S.C. § 12111(9)(B). The code speaks for itself and requires no response by  
9 way of factual pleading. To the extent a response is required, the allegations are  
10 denied.

11 10.11 State Defendants deny that Paragraph 10.11 is an accurate quote  
12 from 42 U.S.C. § 12111(o)(3). To the extent any remaining allegations contain  
13 averments of material fact requiring a response, State Defendants deny the  
14 remaining allegations contained in Paragraph 10.11.

15 10.12 State Defendants admit that Paragraph 10.12 accurately quotes  
16 *Humphrey*, 239 F.3d at 1138. To the extent Plaintiffs attempt to characterize  
17 *Humphrey*, the case speaks for itself and requires no response by way of factual  
18 pleading. To the extent any remaining allegations contain averments of material  
19 fact requiring a response, State Defendants deny the remaining allegations  
20 contained in Paragraph 10.12.

21 10.13 Paragraph 10.13 asserts legal conclusions and argument to which no  
22 response is required. State Defendants admit that Paragraph 10.13 accurately

1 quotes 42 U.S.C. § 12111(10)(A). To the extent any remaining allegations  
 2 contain averments of material fact requiring a response, State Defendants deny  
 3 the remaining allegations contained in Paragraph 10.13.

4 10.14 Paragraph 10.14 asserts legal conclusions and argument to which no  
 5 response is required. State Defendants admit that Paragraph 10.14 accurately  
 6 quotes 42 U.S.C. § 12111(10)(B). To the extent any remaining allegations  
 7 contain averments of material fact requiring a response, State Defendants deny  
 8 the remaining allegations contained in Paragraph 10.14.

9 10.15 State Defendants admit that Paragraph 10.15 accurately quotes  
 10 *Snapp v. United Transportation Union*, 889 F.3d 1088, 1095 (9th Cir. 2018). The  
 11 case speaks for itself and requires no response by way of factual pleading. To the  
 12 extent a response is required, the allegations are denied.

13 10.16 State Defendants deny Paragraph 10.16.

## 14 **XI. EIGHTH CAUSE OF ACTION**

### 15 **Violation of the Washington Law Against Discrimination (WLAD)**

16 11.1 State Defendants incorporate by reference their answers to the  
 17 preceding paragraphs.

18 11.2 Paragraph 11.2 asserts legal conclusions and argument to which no  
 19 response is required. State Defendants admit that Paragraph 11.2 accurately  
 20 quotes excerpts of Wash. Rev. Code § 49.60.180(2). To the extent any remaining  
 21 allegations contain averments of material fact requiring a response,  
 22 State Defendants deny the remaining allegations contained in Paragraph 11.2.

1           11.3 State Defendants admit that Paragraph 11.3 accurately quotes  
2 excerpts of Wash. Rev. Code § 49.60.180(3). To the extent any remaining  
3 allegations contain averments of material fact requiring a response,  
4 State Defendants deny the remaining allegations contained in Paragraph 11.3.

5           11.4 State Defendants admit that Paragraph 11.4 accurately quotes  
6 *Kumar v. Gate Gourmet, Inc.*, 180 Wash. 2d 481, 501, 325 P.3d 193, 203 (2014).  
7 The case speaks for itself and requires no response by way of factual pleading.  
8 To the extent a response is required, the allegations in Paragraph 11.4 are denied.

9           11.5 State Defendants admit that Paragraph 11.5 accurately quotes  
10 Wash. Admin. Code § 162-22-025(2). The regulation speaks for itself and  
11 requires no response by way of factual pleading. To the extent any remaining  
12 allegations contain averments of material fact requiring a response,  
13 State Defendants deny the remaining allegations contained in Paragraph 11.5.

14           11.6 State Defendants admit that Paragraph 11.6 accurately quotes  
15 *Gamble v. City of Seattle*, 6 Wash. App. 2d 883, 888–89, 431 P.3d 1091, 1094  
16 (2018). The case speaks for itself and requires no response by way of factual  
17 pleading. To the extent any remaining allegations contain averments of material  
18 fact requiring a response, State Defendants deny the remaining allegations  
19 contained in Paragraph 11.6.

20           11.7 State Defendants admit that Paragraph 11.7 accurately quotes  
21 Wash. Admin. Code §§ 162-22-065(1)(b) and (2)(a). The regulations speak for  
22 themselves and requires no response by way of factual pleading. To the extent

1 any remaining allegations contain averments of material fact requiring a  
 2 response, State Defendants deny the remaining allegations contained in  
 3 Paragraph 11.7.

4 11.8 State Defendants deny that any Plaintiff can establish a prima facie  
 5 case of discrimination, has been unlawfully denied reasonable accommodations,  
 6 or has suffered damages under Washington's Law Against Discrimination. The  
 7 remainder of Paragraph 11.8 contains legal conclusions and argument to which  
 8 no response is required. To the extent a further response is required, the  
 9 allegations in Paragraph 11.8 are denied.

## 10 **XII. NINTH CAUSE OF ACTION**

### 11 **Cruel Punishment**

12 12.1 State Defendants incorporate by reference their answers to the  
 13 preceding paragraphs.

14 12.2 Paragraph 12.2 contains legal conclusions and argument to which  
 15 no response is required. The Washington State Constitution speaks for itself and  
 16 requires no response by way of factual pleading. To the extent any remaining  
 17 allegations contain averments of material fact requiring a response,  
 18 State Defendants deny the remaining allegations contained in Paragraph 12.2.

19 12.3 Paragraph 12.3 asserts legal conclusions and argument to which no  
 20 response is required. State Defendants admit that Paragraph 12.3 accurately  
 21 quotes Wash. Rev. Code § 43.06.220(5). To the extent any remaining allegations  
 22

1 contain averments of material fact requiring a response, State Defendants deny  
2 the remaining allegations contained in Paragraph 12.3.

3 12.4 State Defendants deny Paragraph 12.4.

4 12.5 State Defendants deny Paragraph 12.5.

5 12.6 State Defendants deny Paragraph 12.6.

### 6 **XIII. TENTH CAUSE OF ACTION**

#### 7 **Negligent Infliction of Emotional Distress**

8 13.1 State Defendants admit that Paragraph 13.1 accurately quotes  
9 *Strong v. Terrell*, 147 Wash. App. 376, 387, 195 P.3d 977, 982 (2008). The case  
10 speaks for itself and requires no response by way of factual pleading. To the  
11 extent a response is required, the allegations are denied.

12 13.2 State Defendants admit that Paragraph 13.2 accurately quotes  
13 *Strong*, 147 Wash. App. at 388. The case speaks for itself and requires no  
14 response by way of factual pleading. To the extent any remaining allegations  
15 contain averments of material fact requiring a response, State Defendants deny  
16 the remaining allegations contained in Paragraph 13.2.

17 13.3 State Defendants deny Paragraph 13.3.

18 13.4 State Defendants deny Paragraph 13.4.

### 19 **XIV. ELEVENTH CAUSE OF ACTION**

#### 20 **Battery**

21 14.1 State Defendants incorporate by reference their answers to the  
22 preceding paragraphs.

1           14.2 State Defendants admit Paragraph 14.2 accurately quotes *Kumar v.*  
2     *Gate Gourmet, Inc.*, 180 Wash. 2d 481, 504, 325 P.3d 193, 203 (2014). The case  
3     speaks for itself and requires no response by way of factual pleading. To the  
4     extent any remaining allegations contain averments of material fact requiring a  
5     response, State Defendants deny the remaining allegations contained in  
6     Paragraph 14.2.

7           14.3 State Defendants admit Paragraph 14.3 accurately quotes *Kumar*,  
8     180 Wash. 2d at 504. The case speaks for itself and requires no response by way  
9     of factual pleading. To the extent any remaining allegations contain averments of  
10    material fact requiring a response, State Defendants deny the remaining  
11    allegations contained in Paragraph 14.3.

12          14.4 State Defendants admit Paragraph 14.4 accurately quotes *Kumar*,  
13    180 Wash. 2d at 504. The case speaks for itself and requires no response by way  
14    of factual pleading. To the extent any remaining allegations contain averments of  
15    material fact requiring a response, State Defendants deny the remaining  
16    allegations contained in Paragraph 14.4.

17          14.5 State Defendants admit Paragraph 14.5 accurately quotes *Kumar*,  
18    180 Wash. 2d at 504. The case speaks for itself and requires no response by way  
19    of factual pleading. To the extent any remaining allegations contain averments of  
20    material fact requiring a response, State Defendants deny the remaining  
21    allegations contained in Paragraph 14.5.

22

1           14.6 State Defendants admit Paragraph 14.6 accurately quotes *Kumar*,  
2 180 Wash. 2d at 504. The case speaks for itself and requires no response by way  
3 of factual pleading. To the extent any remaining allegations contain averments of  
4 material fact requiring a response, State Defendants deny the remaining  
5 allegations contained in Paragraph 14.6.

6           14.7 State Defendants admit Paragraph 14.7 accurately quotes *Kumar*,  
7 180 Wash. 2d at 504. The case speaks for itself and requires no response by way  
8 of factual pleading. To the extent any remaining allegations contain averments of  
9 material fact requiring a response, State Defendants deny the remaining  
10 allegations contained in Paragraph 14.7.

11           14.8 State Defendants admit Paragraph 14.8 accurately quotes *Kumar*,  
12 180 Wash. 2d at 504–05. The case speaks for itself and requires no response by  
13 way of factual pleading. To the extent any remaining allegations contain  
14 averments of material fact requiring a response, State Defendants deny the  
15 remaining allegations contained in Paragraph 14.8.

16           14.9 State Defendants admit Paragraph 14.9 accurately quotes *Kumar*,  
17 180 Wash. 2d at 505. The case speaks for itself and requires no response by way  
18 of factual pleading. To the extent any remaining allegations contain averments of  
19 material fact requiring a response, State Defendants deny the remaining  
20 allegations contained in Paragraph 14.9.

21           14.10 State Defendants admit Paragraph 14.10 accurately quotes *Kumar*,  
22 180 Wash. 2d at 505. The case speaks for itself and requires no response by way



1 of factual pleading. To the extent any remaining allegations contain averments of  
2 material fact requiring a response, State Defendants deny the remaining  
3 allegations contained in Paragraph 14.10.

4 14.11 State Defendants admit Paragraph 14.11 accurately quotes  
5 *Dickinson v. Winther*, 151 Wash. App. 1041, 2019 WL 2437226, at \*5 (Wash.  
6 Ct. App. Aug. 11, 2009) (unpublished). The case speaks for itself and requires no  
7 response by way of factual pleading. To the extent any remaining allegations  
8 contain averments of material fact requiring a response, State Defendants deny  
9 the remaining allegations contained in Paragraph 14.11.

10 14.12 State Defendants admit Paragraph 14.12 accurately quotes  
11 *Dickinson*, 2009 WL 2437226, at \*5. The case speaks for itself and requires no  
12 response by way of factual pleading. To the extent any remaining allegations  
13 contain averments of material fact requiring a response, State Defendants deny  
14 the remaining allegations contained in Paragraph 14.12.

15 14.13 Paragraph 14.13 contains legal conclusions and argument to which  
16 no response is required. State Defendants admit that Paragraph 14.13 accurately  
17 quotes *Barker v. Walter Hogan Enterprises, Inc.*, 23 Wash. App. 450, 453, 596  
18 P.2d 1359 (1979). To the extent any remaining allegations contain averments of  
19 material fact requiring a response, State Defendants deny the remaining  
20 allegations contained in Paragraph 14.13.

21 14.14 Paragraph 14.14 contains legal conclusions and argument to which  
22 no response is required. State Defendants admit that Paragraph 14.14 accurately

1 quotes *Barker*, 23 Wash. App. at 453. To the extent any remaining allegations  
 2 contain averments of material fact requiring a response, State Defendants deny  
 3 the remaining allegations contained in Paragraph 14.14.

4 14.15 State Defendants deny Paragraph 14.15.

5 14.16 State Defendants deny Paragraph 14.16.

6 14.17 State Defendants are without sufficient information regarding the  
 7 vaccination status of all Plaintiffs, and therefore deny the same. The remainder  
 8 of Paragraph 14.17 contains legal conclusions and argument to which no response  
 9 is required. To the extent a further response is required, the remaining allegations  
 10 in Paragraph 14.17 are denied.

11 14.18 State Defendants deny Paragraph 14.18.

12 14.19 State Defendants deny Paragraph 14.19.

13 14.20 State Defendants deny Paragraph 14.20.

14 14.21 Paragraph 14.21 contains legal conclusions and argument to which  
 15 no response is required. To the extent a further response is required, the  
 16 allegations in Paragraph 14.21 are denied.

17 14.22 State Defendants deny paragraph 14.22.

18 14.23 State Defendants deny paragraph 14.23.

19 14.24 State Defendants deny paragraph 14.24.

## 20 **XV. PRAYER FOR RELIEF**

21 Paragraphs 15.1 through 15.8 of the Amended Complaint constitute  
 22 Plaintiffs' prayer for relief, to which no response is required. To the extent a

1 response is required, State Defendants deny Plaintiffs are entitled to the relief  
2 requested or to any relief whatsoever.

3 **STATE DEFENDANTS' AFFIRMATIVE DEFENSES**

4 State Defendants' affirmative defenses to the Complaint are set forth below.  
5 By setting forth the following defenses, State Defendants do not assume burden of  
6 proof on the matter and issue other than those on which they have the burden of  
7 proof as a matter of law. State Defendants reserve the right to supplement these  
8 defenses.

- 9 1. State Defendants are entitled to qualified immunity.
- 10 2. Plaintiffs have failed to exhaust administrative remedies.
- 11 3. Plaintiffs have failed to file claims against the State under  
12 Wash. Rev. Code § 4.92.100.
- 13 4. Plaintiffs lack standing.
- 14 5. Plaintiffs' claims are moot.
- 15 6. Plaintiffs' claims are unripe.
- 16 7. Plaintiffs have failed to state a claim upon which relief may be  
17 granted.
- 18 8. Plaintiffs' claims alleging violations of state law are barred by the  
19 Eleventh Amendment and principles of sovereign immunity.
- 20 9. Plaintiffs have an adequate remedy at law and so injunctive and  
21 declaratory relief are inappropriate.
- 22

1           10. Plaintiffs' claims are barred in whole or in part by the doctrines of  
2 laches, waiver, unclean hands, accord and satisfaction, and/or ratification.

3           11. Plaintiffs have failed to join necessary parties.

4           12. Plaintiffs' claims are barred by res judicata.

5           13. Plaintiffs' claims are barred by collateral estoppel.

6           14. The Proclamation furthers the legitimate and compelling government  
7 interests in combatting the COVID-19 pandemic.

8           15. The Proclamation is an appropriate use of the state's police power to  
9 protect public health and welfare.

10           16. The Proclamation is a lawful exercise, and an appropriate use, of the  
11 emergency powers of the Governor.

12           17. The Proclamation is neutral and generally applicable.

13                   **STATE DEFENDANTS' REQUEST FOR RELIEF**

14           Wherefore, State Defendants pray that the Court:

15           1. Dismiss Plaintiffs' Amended Complaint with prejudice;

16           2. Deny all relief that Plaintiffs request;

17           3. Grant State Defendants their costs and reasonable attorneys' fees;

18           and,

19           4. Grant State Defendants such other and further relief as the Court  
20 may deem just and proper.

1 DATED this 31st day of January 2022.

2 ROBERT W. FERGUSON  
3 Attorney General

4 /s/ Cristina Sepe  
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*Attorneys for Defendants Governor Jay Inslee,  
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Roger Millar*

**DECLARATION OF SERVICE**

I hereby certify that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients for electronic notice.

DATED this 31st day of January 2022, at Tacoma, Washington.

/s/ Cristina Sepe

CRISTINA SEPE, WSBA #53609

Assistant Attorney General